

AMENDED IN SENATE JUNE 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1793**

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**Introduced by Assembly Member Chau**

February 18, 2014

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An act to add Section 34176.7 to amend Section 34176.1 of the Health and Safety Code, relating to ~~community development~~ *redevelopment*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, as amended, Chau. ~~Community development: affordable housing. Redevelopment housing successor: report.~~

*Existing law dissolved redevelopment agencies and community development agencies, and provides for the designation of successor agencies that are required to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations, as defined.*

*Existing law provides that the city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. Existing law requires that any funds transferred to the city, county, or city and county or the entity assuming the housing functions of the former redevelopment agency, together with any funds generated from housing assets, to be maintained in a separate Low and Moderate Income Housing Asset Fund to be used in accordance with applicable housing-related provisions of the Community Redevelopment Law, except as specified. Existing law requires the housing successor annually to provide an independent financial audit of the fund to its governing body, and to post on its Internet Web site specified information.*

*This bill would require that posted information to also include, as specified, an inventory of homeownership units assisted by the former redevelopment agency or the housing successor that are subject to covenants or restrictions or to an adopted program that protects the former redevelopment agency's investment of moneys from the Low and Moderate Income Housing Fund.*

~~Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies as defined. Existing law authorizes the city, county, or city and county that authorized the creation of a redevelopment agency to retain the housing assets, functions, and powers previously performed by the redevelopment agency, excluding amounts on deposit in the Low and Moderate Income Housing Fund.~~

~~This bill would require the California Housing Finance Agency, on or before July 1, 2015, to conduct a request for proposals to identify up to 6 nonprofit organizations as being eligible to accept responsibility, for enforcing the affordability deed restrictions on homeownership units of a former redevelopment agency, from a city, county, city and county, or housing authority. The bill would authorize a city, county, city and county, or housing authority that has elected to retain the housing assets and function previously performed by the redevelopment agency to transfer responsibility associated with enforcing the affordable deed restrictions on homeownership units to one of the qualified nonprofit organizations identified by the agency, as specified. The bill would additionally require the nonprofit organization to provide an annual audit of below market rate units to the donating city, county, city and county, or housing authority, and would require the city, county, city and county, or housing authority to publish the audit on its Internet Web site.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 34176.1 of the Health and Safety Code
- 2     is amended to read:
- 3     34176.1. Funds in the Low and Moderate Income Housing
- 4     Asset Fund described in subdivision (d) of Section 34176 shall be
- 5     subject to the provisions of the Community Redevelopment Law

(Part 1 (commencing with Section 33000)) relating to the Low and Moderate Income Housing Fund, except as follows:

(a) Subdivision (d) of Section 33334.3 and subdivision (a) of Section 33334.4 shall not apply. Instead, funds received from the successor agency for items listed on the Recognized Obligation Payment Schedule shall be expended to meet the enforceable obligations, and the housing successor shall expend all other funds in the Low and Moderate Income Housing Asset Fund as follows:

(1) For the purpose of monitoring and preserving the long-term affordability of units subject to affordability restrictions or covenants entered into by the redevelopment agency or the housing successor and for the purpose of administering the activities described in paragraphs (2) and (3), a housing successor may expend per fiscal year up to an amount equal to 2 percent of the statutory value of real property owned by the housing successor and of loans and grants receivable, including real property and loans and grants transferred to the housing successor pursuant to Section 34176 and real property purchased and loans and grants made by the housing successor. If this amount is less than two hundred thousand dollars (\$200,000) for any given fiscal year, the housing successor may expend up to two hundred thousand dollars (\$200,000) in that fiscal year for these purposes. The Department of Housing and Community Development shall annually publish on its Internet Web site an adjustment to this amount to reflect any change in the Consumer Price Index for All Urban Consumers published by the federal Department of Labor for the preceding calendar year. For purposes of this paragraph, “statutory value of real property” means the value of properties formerly held by the former redevelopment agency as listed on the housing asset transfer form approved by the Department of Finance pursuant to paragraph (2) of subdivision (a) of Section 34176, the value of the properties transferred to the housing successor pursuant to subdivision (f) of Section 34181, and the purchase price of properties purchased by the housing successor.

(2) Notwithstanding Section 33334.2, if the housing successor has fulfilled all obligations pursuant to Sections 33413 and 33418, the housing successor may expend up to two hundred fifty thousand dollars (\$250,000) per fiscal year for homeless prevention and rapid rehousing services for individuals and families who are homeless or would be homeless but for this assistance, including

1 the provision of short-term or medium-term rental assistance,  
2 housing relocation and stabilization services including housing  
3 search, mediation, or outreach to property owners, credit repair,  
4 security or utility deposits, utility payments, rental assistance for  
5 a final month at a location, moving cost assistance, and case  
6 management, or other appropriate activities for homelessness  
7 prevention and rapid rehousing of persons who have become  
8 homeless.

9 (3) (A) The housing successor shall expend all funds remaining  
10 in the Low and Moderate Income Housing Asset Fund after the  
11 expenditures allowed pursuant to paragraphs (1) and (2) for the  
12 development of housing affordable to and occupied by households  
13 earning 80 percent or less of the area median income, with at least  
14 30 percent of these remaining funds expended for the development  
15 of rental housing affordable to and occupied by households earning  
16 30 percent or less of the area median income and no more than 20  
17 percent of these remaining funds expended for the development  
18 of housing affordable to and occupied by households earning  
19 between 60 percent and 80 percent of the area median income. A  
20 housing successor shall demonstrate in the annual report described  
21 in subdivision (f), for 2019, and every five years thereafter, that  
22 the housing successor's expenditures from January 1, 2014, through  
23 the end of the latest fiscal year covered in the report comply with  
24 the requirements of this subparagraph.

25 (B) If the housing successor fails to comply with the extremely  
26 low income requirement in any five-year report, then the housing  
27 successor shall ensure that at least 50 percent of these remaining  
28 funds expended in each fiscal year following the latest fiscal year  
29 following the report are expended for the development of rental  
30 housing affordable to, and occupied by, households earning 30  
31 percent or less of the area median income until the housing  
32 successor demonstrates compliance with the extremely low income  
33 requirement in an annual report described in subdivision (f).

34 (C) If the housing successor exceeds the expenditure limit for  
35 households earning between 60 percent and 80 percent of the area  
36 median income in any five-year report, the housing successor shall  
37 not expend any of the remaining funds for households earning  
38 between 60 percent and 80 percent of the area median income until  
39 the housing successor demonstrates compliance with this limit in  
40 an annual report described in subdivision (f).

(D) For purposes of this subdivision, “development” means new construction, acquisition and rehabilitation, substantial rehabilitation as defined in Section 33413, the acquisition of long-term affordability covenants on multifamily units as described in Section 33413, or the preservation of an assisted housing development that is eligible for prepayment or termination or for which within the expiration of rental restrictions is scheduled to occur within five years as those terms are defined in Section 65863.10 of the Government Code. Units described in this subparagraph may be counted towards any outstanding obligations pursuant to Section 33413, provided that the units meet the requirements of that section and are counted as provided in that section.

(b) Subdivision (b) of Section 33334.4 shall not apply. Instead, if the aggregate number of units of deed-restricted rental housing restricted to seniors and assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the previous 10 years exceeds 50 percent of the aggregate number of units of deed-restricted rental housing assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the same time period, then the housing successor shall not expend these funds to assist additional senior housing units until the housing successor or its host jurisdiction assists, and construction has commenced, a number of units available to all persons, regardless of age, that is equal to 50 percent of the aggregate number of units of deed-restricted rental housing units assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the time period described above.

(c) (1) Program income a housing successor receives shall not be associated with a project area and, notwithstanding subdivision (g) of Section 33334.2, may be expended anywhere within the jurisdiction of the housing successor or transferred pursuant to paragraph (2) without a finding of benefit to a project area. For purposes of this paragraph, “program income” means the sources described in paragraphs (3), (4), and (5) of subdivision (e) of Section 34176 and interest earned on deposits in the account.

(2) Two or more housing successors within a county, within a single metropolitan statistical area, within 15 miles of each other, or that are in contiguous jurisdictions may enter into an agreement

1 to transfer funds among their respective Low and Moderate Income  
2 Housing Asset Funds for the sole purpose of developing transit  
3 priority projects as defined in subdivisions (a) and (b) of Section  
4 21155 of the Public Resources Code, permanent supportive housing  
5 as defined in paragraph (2) of subdivision (b) of Section 50675.14,  
6 housing for agricultural employees as defined in subdivision (g)  
7 of Section 50517.5, or special needs housing as defined in federal  
8 or state law or regulation if all of the following conditions are met:  
9 (A) Each participating housing successor has made a finding  
10 based on substantial evidence, after a public hearing, that the  
11 agreement to transfer funds will not cause or exacerbate racial,  
12 ethnic, or economic segregation.

13 (B) The development to be funded shall not be located in a  
14 census tract where more than 50 percent of its population is very  
15 low income, unless the development is within one-half mile of a  
16 major transit stop or high-quality transit corridor as defined in  
17 paragraph (3) of subdivision (b) of Section 21155 of the Public  
18 Resources Code.

19 (C) The completed development shall not result in a reduction  
20 in the number of housing units or a reduction in the affordability  
21 of housing units on the site where the development is to be built.

22 (D) A transferring housing successor shall not have any  
23 outstanding obligations pursuant to Section 33413.

24 (E) No housing successor may transfer more than one million  
25 dollars (\$1,000,000) per fiscal year.

26 (F) The jurisdictions of the transferring and receiving housing  
27 successors each have an adopted housing element that the  
28 Department of Housing and Community Development has found  
29 pursuant to Section 65585 of the Government Code to be in  
30 substantial compliance with the requirements of Article 10.6  
31 (commencing with Section 65580) of Chapter 3 of Division 1 of  
32 Title 7 of the Government Code and have submitted to the  
33 Department of Housing and Community Development the annual  
34 progress report required by Section 65400 of the Government Code  
35 within the preceding 12 months.

36 (G) Transferred funds shall only assist rental units affordable  
37 to, and occupied by, households earning 60 percent or less of the  
38 area median income.

39 (H) Transferred funds not encumbered within two years shall  
40 be transferred to the Department of Housing and Community

1 Development for expenditure pursuant to the Multifamily Housing  
2 Program or the Joe Serna, Jr. Farmworker Housing Grant Program.

3 (d) Sections 33334.10 and 33334.12 shall not apply. Instead, if  
4 a housing successor has an excess surplus, the housing successor  
5 shall encumber the excess surplus for the purposes described in  
6 paragraph (3) of subdivision (a) or transfer the funds pursuant to  
7 paragraph (2) of subdivision (c) within three fiscal years. If the  
8 housing successor fails to comply with this subdivision, the housing  
9 successor, within 90 days of the end of the third fiscal year, shall  
10 transfer any excess surplus to the Department of Housing and  
11 Community Development for expenditure pursuant to the  
12 Multifamily Housing Program or the Joe Serna, Jr. Farmworker  
13 Housing Grant Program. For purposes of this subdivision, “excess  
14 surplus” shall mean an unencumbered amount in the account that  
15 exceeds the greater of one million dollars (\$1,000,000) or the  
16 aggregate amount deposited into the account during the housing  
17 successor’s preceding four fiscal years, whichever is greater.

18 (e) Section 33334.16 shall not apply to interests in real property  
19 acquired on or after February 1, 2012. With respect to interests in  
20 real property acquired by the former redevelopment agency prior  
21 to February 1, 2012, the time periods described in Section 33334.16  
22 shall be deemed to have commenced on the date that the  
23 Department of Finance approved the property as a housing asset.

24 (f) Section 33080.1 of this code and Section 12463.3 of the  
25 Government Code shall not apply. Instead, the housing successor  
26 shall conduct, and shall provide to its governing body, an  
27 independent financial audit of the Low and Moderate Income  
28 Housing Asset Fund within six months after the end of each fiscal  
29 year, which may be included in the independent financial audit of  
30 the host jurisdiction. If the housing successor is a city or county,  
31 it shall also include in its report pursuant to Section 65400 of the  
32 Government Code and post on its Internet Web site all of the  
33 following information for the previous fiscal year. If the housing  
34 successor is not a city or county, it shall also provide to its  
35 governing body and post on its Internet Web site all of the  
36 following information for the previous fiscal year:

37 (1) The amount deposited to the Low and Moderate Income  
38 Housing Asset Fund, distinguishing any amounts deposited for  
39 items listed on the Recognized Obligation Payment Schedule from  
40 other amounts deposited.

1 (2) A statement of the balance in the fund as of the close of the  
2 fiscal year, distinguishing any amounts held for items listed on the  
3 Recognized Obligation Payment Schedule from other amounts.

4 (3) A description of expenditures from the fund by category,  
5 including, but not limited to, expenditures (A) for monitoring and  
6 preserving the long-term affordability of units subject to  
7 affordability restrictions or covenants entered into by the  
8 redevelopment agency or the housing successor and administering  
9 the activities described in paragraphs (2) and (3) of subdivision  
10 (a), (B) for homeless prevention and rapid rehousing services for  
11 the development of housing described in paragraph (2) of  
12 subdivision (a), and (C) for the development of housing pursuant  
13 to paragraph (3) of subdivision (a).

14 (4) As described in paragraph (1) of subdivision (a), the statutory  
15 value of real property owned by the housing successor, the value  
16 of loans and grants receivable, and the sum of these two amounts.

17 (5) A description of any transfers made pursuant to paragraph  
18 (2) of subdivision (c) in the previous fiscal year and, if still  
19 unencumbered, in earlier fiscal years and a description of and status  
20 update on any project for which transferred funds have been or  
21 will be expended if that project has not yet been placed in service.

22 (6) A description of any project for which the housing successor  
23 receives or holds property tax revenue pursuant to the Recognized  
24 Obligation Payment Schedule and the status of that project.

25 (7) For interests in real property acquired by the former  
26 redevelopment agency prior to February 1, 2012, a status update  
27 on compliance with Section 33334.16. For interests in real property  
28 acquired on or after February 1, 2012, a status update on the  
29 project.

30 (8) A description of any outstanding obligations pursuant to  
31 Section 33413 that remained to transfer to the housing successor  
32 on February 1, 2012, of the housing successor's progress in meeting  
33 those obligations, and of the housing successor's plans to meet  
34 unmet obligations. In addition, the housing successor shall include  
35 in the report posted on its Internet Web site the implementation  
36 plans of the former redevelopment agency.

37 (9) The information required by subparagraph (B) of paragraph  
38 (3) of subdivision (a).

39 (10) The percentage of units of deed-restricted rental housing  
40 restricted to seniors and assisted individually or jointly by the



housing successor, its former redevelopment agency, and its host jurisdiction within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the same time period.

(11) The amount of any excess surplus, the amount of time that the successor agency has had excess surplus, and the housing successor's plan for eliminating the excess surplus.

(12) *An inventory of homeownership units assisted by the former redevelopment agency or the housing successor that are subject to covenants or restrictions or to an adopted program that protects the former redevelopment agency's investment of moneys from the Low and Moderate Income Housing Fund pursuant to subdivision (f) of Section 33334.3. This inventory shall include all of the following information:*

(A) *The number of those units.*

(B) *In the first report pursuant to this subdivision, the number of units lost to the portfolio after February 1, 2012, and the reason or reasons for those losses. For all subsequent reports, the number of the units lost to the portfolio in the last fiscal year and the reason for those losses.*

(C) *Any funds returned to the housing successor as part of an adopted program that protects the former redevelopment agency's investment of moneys from the Low and Moderate Income Housing Fund.*

(D) *Whether the housing successor has contracted with any outside entity for the management of the units and, if so, the identity of the entity.*

~~SECTION 1. Section 34176.7 is added to the Health and Safety Code, to read:~~

~~34176.7. (a) On or before July 1, 2015, the California Housing Finance Agency shall conduct a request for proposals to identify up to six nonprofit organizations as being qualified to accept responsibility for enforcing the affordability deed restrictions on homeownership units of a former redevelopment agency.~~

~~(b) Upon identification of the qualified nonprofit organizations pursuant to subdivision (a), a city, county, city and county, or housing authority that elected to retain the housing assets and functions previously performed by the redevelopment agency,~~

1 may, by ordinance or resolution adopted at a noticed public  
2 meeting, transfer responsibility associated with enforcing the  
3 affordable deed restrictions on homeownership units to one of the  
4 qualified nonprofit organizations identified by the agency.

5 (e) A qualified nonprofit organization that has received  
6 responsibility associated with enforcing the affordability deed  
7 restrictions on homeownership units from a city, county, city and  
8 county, or housing authority, shall, on or before January 1 of each  
9 year, provide an audit of the below market rate units to the donating  
10 city, county, city and county, or housing authority. The audit shall  
11 include the number of units that have been sold to new owners,  
12 and any return on equity sharing. The city, county, city and county,  
13 or housing entity shall publish the audit on its Internet Web site.